

**Introduced by Committee on Public Employment and Retirement
(Senators Soto (Chair), Alarcon, Ashburn, Dunn, and
Hollingsworth)**

February 23, 2006

An act to amend Sections 22664, 24703, 24704, 24705, 25015, 26000.5, 26113, 26400, 26401, and 44922 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1466, as introduced, Committee on Public Employment and Retirement. State Teachers' Retirement System: benefits.

(1) The State Teachers' Retirement Law permits a member of the Defined Benefit Supplement Program to elect from among several forms of annuity payments. That law prohibits the member, if he or she elects a joint and survivor annuity and retires, from changing his or her beneficiary unless the beneficiary is the spouse or domestic partner of the member and a judgment of dissolution, legal separation, or nullity is entered. That law further permits the member, after that judgment is entered, to elect a new annuity beneficiary and, if that new beneficiary predeceases the member, the member may further change his or her beneficiary unless the member elects a modified retirement allowance with a "pop-up" feature, as specified.

This bill would delete that restriction for the member of the Defined Benefit Supplement Program who elects a modified retirement allowance with a "pop-up" feature and permit that member, if he or she is otherwise eligible, to change his or her beneficiary.

(2) Under existing law, the Cash Balance Benefit Program provides a retirement plan for persons who perform creditable service, as defined. Existing law permits a person who performs trustee service for an employer, if that employer elects to provide benefits under the

Cash Balance Benefit Program, to elect to participate in that program for his or her trustee service.

This bill would additionally define creditable service under the Cash Balance Benefit Program as trustee service for an employer.

(3) Existing law requires an employer to report all other information required by the retirement system to provide benefits under the cash balance benefit program.

This bill would clarify that an employer shall retain a copy of and mail the original election form of an employee participating in that program to the retirement system.

(4) The bill would also make various technical and clarifying changes to the Teachers' Retirement Law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22664 of the Education Code is
2 amended to read:

3 22664. The nonmember spouse who is awarded a separate
4 account shall have the right to a service retirement allowance
5 and, if applicable, a retirement benefit under this part.

6 (a) The nonmember spouse shall be eligible to retire for
7 service under this part if the following conditions are satisfied:

8 (1) The member had at least five years of credited service
9 during the period of marriage, at least one year of which had
10 been performed subsequent to the most recent refund to the
11 member of accumulated retirement contributions. The credited
12 service may include service credited to the account of the
13 member as of the date of the dissolution or legal separation,
14 previously refunded service, out-of-state service, and permissive
15 service credit that the member is eligible to purchase at the time
16 of the dissolution or legal separation.

17 (2) The nonmember spouse has at least 2 ½ years of credited
18 service in his or her separate account.

19 (3) The nonmember spouse has attained ~~the age of~~ 55 years of
20 age or more.

21 (b) A service retirement allowance of a nonmember spouse
22 under this part shall become effective upon ~~any~~ a date designated
23 by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for service retirement on a form provided by the system, that is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month ~~in which~~ *that* the application is received at the system's ~~headquarters office in Sacramento as described in Section 22375,~~ and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60 $\frac{1}{4}$	2.033
60 $\frac{1}{2}$	2.067
60 $\frac{3}{4}$	2.10
61	2.133
61 $\frac{1}{4}$	2.167
61 $\frac{1}{2}$	2.20
61 $\frac{3}{4}$	2.233
62	2.267
62 $\frac{1}{4}$	2.30
62 $\frac{1}{2}$	2.333
62 $\frac{3}{4}$	2.367
63 and over	2.40

1 (4) In computing the retirement allowance of the nonmember
2 spouse, the age of the nonmember spouse on the last day of the
3 month ~~in which~~ *that* the retirement allowance begins to accrue
4 shall be used.

5 (5) Final compensation, for purposes of calculating the service
6 retirement allowance of the nonmember spouse under this
7 subdivision, shall be calculated according to the definition of
8 final compensation in Section 22134, 22134.5, 22135, or 22136,
9 whichever is applicable, and shall be based on the member's
10 compensation earnable up to the date the parties separated, as
11 established in the judgment or court order pursuant to Section
12 22652. The nonmember spouse shall not be entitled to use any
13 other calculation of final compensation.

14 (d) Upon service retirement under this part, the nonmember
15 spouse shall receive a retirement benefit based on an amount
16 equal to the balance of credits in the nonmember spouse's
17 Defined Benefit Supplement account on the date the retirement
18 benefit becomes payable.

19 (1) A retirement benefit shall be a lump-sum payment, or an
20 annuity payable in monthly installments, or a combination of
21 both a lump-sum payment and an annuity, as elected by the
22 nonmember spouse on the application for a retirement benefit.
23 ~~Any~~ A retirement benefit paid as an annuity under this chapter
24 shall be subject to Sections 22660 and 25011.

25 (2) Upon distribution of the entire retirement benefit in a
26 lump-sum payment, no other benefit shall be payable to the
27 nonmember spouse or the nonmember spouse's beneficiary under
28 the Defined Benefit Supplement Program.

29 (e) If the member is or was receiving a disability allowance
30 under this part with an effective date before or on the date the
31 parties separated as established in the judgment or court order
32 pursuant to Section 22652, or at any time applies for and receives
33 a disability allowance with an effective date that is before or
34 coincides with the date the parties separated as established in the
35 judgment or court order pursuant to Section 22652, the
36 nonmember spouse shall not be eligible to retire until after the
37 disability allowance of the member terminates. If the member
38 who is or was receiving a disability allowance returns to
39 employment to perform creditable service subject to coverage
40 under the Defined Benefit Program or has his or her allowance

1 terminated under Section 24015, the nonmember spouse may not
2 be paid a retirement allowance until at least six months after
3 termination of the disability allowance and the return of the
4 member to employment to perform creditable service subject to
5 coverage under the Defined Benefit Program, or the termination
6 of the disability allowance and the employment or
7 self-employment of the member in any capacity, notwithstanding
8 Section 22132. If at the end of the six-month period, the member
9 has not had a recurrence of the original disability or has not had
10 his or her earnings fall below the amounts described in Section
11 24015, the nonmember spouse may be paid a retirement
12 allowance if all other eligibility requirements are met.

13 (1) The retirement allowance of the nonmember spouse under
14 this subdivision shall be calculated as follows: the disability
15 allowance the member was receiving, exclusive of the portion for
16 dependent children, shall be divided between the share of the
17 member and the share of the nonmember spouse. The share of
18 the nonmember spouse shall be the amount obtained by
19 multiplying the disability allowance, exclusive of the portion for
20 dependent children, by the years of service credited to the
21 separate account of the nonmember spouse, including service
22 projected to the date of separation, and dividing by the projected
23 service of the member. The nonmember spouse's retirement
24 allowance shall be the lesser of the share of the nonmember
25 spouse under this subdivision or the retirement allowance under
26 subdivision (c).

27 (2) The share of the member shall be the total disability
28 allowance reduced by the share of the nonmember spouse. The
29 share of the member shall be considered the disability allowance
30 of the member for purposes of Section 24213.

31 (f) The nonmember spouse who receives a retirement
32 allowance is not a retired member under this part. However, the
33 allowance of the nonmember spouse shall be increased by
34 application of the improvement factor and shall be eligible for
35 the application of supplemental increases and other benefit
36 maintenance provisions under this part, including, but not limited
37 to, Sections 24411, 24412, and 24415 based on the same criteria
38 used for the application of these benefit maintenance increases to
39 the service retirement allowances of members.

SEC. 2. Section 24703 of the Education Code is amended to read:

24703. Persons who select to be covered only by the Defined Benefit Program and already have credit for classified or other noncertificated service in the San Francisco ~~local~~ system shall not have that credit transferred to the Defined Benefit Program.

SEC. 3. Section 24704 of the Education Code is amended to read:

24704. The San Francisco Employees' Retirement System shall provide concurrent retirement benefits for classified and other noncertificated service in the San Francisco system according to the provisions applicable to miscellaneous employees of the time of the concurrent retirement for:

(a) Members of that system who transfer to the Defined Benefit Program after June 30, 1972.

(b) Persons who were members of both the San Francisco system and the Defined Benefit Program on June 30, 1972.

(c) ~~Any~~ A person who could have qualified under subdivision (b) if he or she had not taken a refund from either the San Francisco ~~System~~ system or the Defined Benefit Program, but not both, provided the person qualifies for and redeposits prior to retirement.

SEC. 4. Section 24705 of the Education Code is amended to read:

24705. Notwithstanding the provisions in Section 24201, a member of the San Francisco ~~local~~ system may retire concurrently and receive credit for service performed in other states of the United States, its territories and possessions, and in Canada.

SEC. 5. Section 25015 of the Education Code is amended to read:

25015. (a) If a member elects to receive a benefit payable under the Defined Benefit Supplement Program as a joint and survivor annuity, the designation of the beneficiary made pursuant to Section 24300 or 24301 shall apply to the benefit payable under this chapter. The annuity beneficiary designation shall not be changed after the date the benefit becomes payable to the member, except as provided in *Section 25011* or Chapter 12 (commencing with Section 22650).

(b) If the member designates multiple annuity beneficiaries in the designation of beneficiary made pursuant to Section 24300 or 24301, the percentage of the annuity payable to each annuity beneficiary upon the death of the member specified in that designation shall apply to the benefit payable under this chapter. The annuity amount payable to the member during his or her lifetime shall be modified to be payable over the combined lives of the member and the annuity beneficiary or beneficiaries.

(c) If the member predeceases an annuity beneficiary, the annuity beneficiary may designate a payee to receive an amount that may be payable in a lump-sum pursuant to Section 25023 upon the death of the annuity beneficiary.

SEC. 6. Section 26000.5 of the Education Code is amended to read:

26000.5. (a) An employer whose governing board has elected to provide the benefits of this part for its employees pursuant to Section 26000 shall enter into an agreement with the State Teachers' Retirement System. The agreement shall specify the terms and conditions of the employer's formal action to provide the Cash Balance Benefit Program and shall remain in effect unless or until the employer exercises the right to discontinue the ~~plan~~ *program* pursuant to Chapter 17 (commencing with Section 28100).

SEC. 7. Section 26113 of the Education Code is amended to read:

26113. (a) "Creditable Service" means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges or under the provisions of an approved charter for the operation of a charter school for which the employer is eligible to receive state apportionment or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training:

(1) The work of teachers, instructors, district interns and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupational programs, child care centers, and prekindergarten programs pursuant to Section 22161.

1 (2) Education or vocational counseling, guidance, and
2 placement services.

3 (3) The work of directors, coordinators, and assistant
4 administrators who plan courses of study to be used in California
5 public schools, or research connected with the evaluation or
6 efficiency of the instructional program.

7 (4) The selection, collection, preparation, classification,
8 demonstration, or evaluation of instructional materials of any
9 course of study for use in the development of the instructional
10 program in California public schools, or other services related to
11 school curriculum.

12 (5) The examination, selection, in-service training, or
13 assignment of teachers, principals or other similar personnel
14 involved in the instructional program.

15 (6) School activities related to, and an outgrowth of, the
16 instructional and guidance program of the school when
17 performed in addition to other activities described in this section.

18 (7) The work of nurses, physicians, speech therapists,
19 psychologists, audiometrists, audiologists, and other school
20 health professionals.

21 (8) Services as a school librarian.

22 (9) The work of county and district superintendents and other
23 employees who are responsible for the supervision of persons or
24 administration of the duties described in this section.

25 (10) *Trustee service as described in Section 26403.*

26 (b) “Creditable service” also means the work of
27 superintendents of California public schools.

28 (c) The board shall have final authority for determining
29 creditable service to cover ~~any~~ activities not already specified.

30 SEC. 8. Section 26400 of the Education Code is amended to
31 read:

32 26400. (a) A person employed on a part-time basis by a
33 school district or county office of education to perform creditable
34 service for less than 50 percent of each full-time position shall
35 become a participant on the later of the first day ~~on which~~ *that*
36 creditable service is performed for an employer that provides the
37 Cash Balance Benefit Program or the effective date of the
38 employer’s governing board’s action to provide the Cash Balance
39 Benefit Program, provided that creditable service is not
40 performed for the same employer with whom the person is

1 subject to mandatory membership in the Defined Benefit
2 Program.

3 (b) A person employed on a temporary basis by a community
4 college district, who is not subject to mandatory membership in
5 the Defined Benefit Program pursuant to Section 22502 or 22504
6 for each position with the same employer, shall become a
7 participant on the later of the first day ~~on which~~ *that* creditable
8 service is performed for an employer that provides the Cash
9 Balance Benefit Program or the effective date of the employer's
10 governing board's action to provide the Cash Balance Benefit
11 Program.

12 (c) If the employer's governing board's action to provide the
13 Cash Balance Benefit Program gives employees the right to elect
14 coverage under social security or an alternative retirement plan
15 offered by the employer in addition to the Cash Balance Benefit
16 Program, the employee may elect within 60 calendar days of the
17 latest of the first day ~~on which~~ *that* creditable service is
18 performed, the date of the employer's governing board's action
19 to provide the Cash Balance Benefit Program, or the effective
20 date of the employer's governing board's action to provide the
21 Cash Balance Benefit Program to be covered by social security
22 or to participate in the alternative retirement plan in lieu of
23 participating in the Cash Balance Benefit Program. ~~Any~~ *An*
24 election may not preclude an employee from participating in the
25 Cash Balance Benefit Program at a later date so long as the Cash
26 Balance Benefit Program is provided by the employer and the
27 employee is eligible to participate in the Cash Balance Benefit
28 Program.

29 (d) If subdivision (c) is applicable, the employer shall inform
30 employees pursuant to subdivision (c) of Section 26300 of their
31 right to make an election and the election shall be made on a
32 form prescribed by the system and filed with the employer. *The*
33 *employer shall retain a copy of the employee's signed election*
34 *form and mail the original election form to the headquarters*
35 *office of the system as described in Section 22375.* The election
36 shall become effective on the later of the first day ~~on which~~ *that*
37 creditable service is performed or the effective date of the
38 employer's governing board's action to provide the Cash Balance
39 Benefit Program.

(e) If the participant's basis of employment with a school district or county office of education that provides the Cash Balance Benefit Program changes to employment to perform creditable service for 50 percent or more of the full-time position during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(f) If the participant's basis of employment with a community college district changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, or 22504 during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

SEC. 9. Section 26401 of the Education Code is amended to read:

26401. (a) A member of the Defined Benefit Program who is employed to perform creditable service on a part-time basis for less than 50 percent of each full-time position by a school district or county office of education that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the member is also subject to mandatory membership in the Defined Benefit Program.

(b) A member of the Defined Benefit Program who is employed pursuant to Section 87474, 87480, 87481, 87482, or 87482.5 by a community college district that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the

1 member is also subject to mandatory membership in the Defined
2 Benefit Program.

3 (c) The election shall be made on a form prescribed by the
4 system and shall be filed with the employer within 60 calendar
5 days of the later of the first day of employment with an employer
6 that provides the Cash Balance Benefit Program, the date of the
7 employer's governing board's action to provide the Cash Balance
8 Benefit Program, or the effective date of the employer's
9 governing board's action to provide the Cash Balance Benefit
10 Program. *The employer shall retain a copy of the employee's*
11 *signed election form and mail the original election form to the*
12 *headquarters office of the system as described in Section 22375.*

13 (d) Employers shall make available to employees specified in
14 subdivisions (a) and (b) information and forms provided by the
15 system for making an election regarding participation, and shall
16 maintain the written election by the employee in employer files.
17 The election shall become effective on the first day of the pay
18 period following the pay period in which the election is made.

19 (e) If an election is made pursuant to subdivision (a) and the
20 participant's basis of employment with that employer changes to
21 employment to perform creditable service for 50 percent or more
22 of the full-time position during one school year with the same
23 employer, creditable service performed for that employer shall no
24 longer be covered under the Cash Balance Benefit Program.
25 Creditable service performed for that employer shall be subject to
26 coverage under the Defined Benefit Program as of the first day of
27 the pay period following the change in the participant's basis of
28 employment.

29 (f) If an election is made pursuant to subdivision (b) and the
30 participant's basis of employment with the community college
31 district changes to employment that is subject to mandatory
32 membership in the Defined Benefit Program pursuant to Section
33 22501, 22502, or 22504 during one school year with the same
34 employer, creditable service performed for that employer shall no
35 longer be covered under the Cash Balance Benefit Program.
36 Creditable service performed for that employer shall be subject to
37 coverage under the Defined Benefit Program as of the first day of
38 the pay period following the change in the participant's basis of
39 employment.

(g) (1) If an employee was excluded from participation in the Cash Balance Benefit Program pursuant to Section 26401.5, as that section read on December 31, 2000, for the same service, the employee may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided all of the following conditions are met:

(A) The employment is pursuant to Section 87474, 87480, 87481, 87482, or 87482.5.

(B) The employer offers the Cash Balance Benefit Program.

(C) The creditable service is not also subject to mandatory membership in the Defined Benefit Program.

(2) Employers shall make available to employees forms provided by the system for making an election regarding participation and shall maintain the written election by the employee in the employer files. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

SEC. 10. Section 44922 of the Education Code is amended to read:

44922. Notwithstanding any other provision, the governing board of a school district or a county superintendent of schools may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

The regulations shall include, but shall not be limited to, the following, if the employees wish to reduce their workload and maintain retirement benefits pursuant to Section ~~22724~~ 22713 of this code or Section 20815 of the Government Code:

(a) The employee shall have reached the age of 55 prior to reduction in workload.

(b) The employee shall have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring certification for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service.

1 (d) The option of part-time employment shall be exercised at
2 the request of the employee and can be revoked only with the
3 mutual consent of the employer and the employee.

4 (e) (1) The employee shall be paid a salary ~~which~~ *that* is the
5 pro rata share of the salary he or she would be earning had he or
6 she not elected to exercise the option of part-time employment
7 but shall retain all other rights and benefits for which he or she
8 makes the payments that would be required if he or she remained
9 in full-time employment.

10 (2) The employee shall receive health benefits as provided in
11 Section 53201 of the Government Code in the same manner as a
12 full-time employee.

13 (f) The minimum part-time employment shall be the
14 equivalent of one-half of the number of days of service required
15 by the employee's contract of employment during his or her final
16 year of service in a full-time position.

17 (g) This option is limited in prekindergarten through grade 12
18 to certificated employees who do not hold positions with salaries
19 above that of a school principal.

20 (h) The period of this part-time employment shall include a
21 period of time, as specified in the regulations, which shall be up
22 to and include five years for employees subject to Section 20815
23 of the Government Code or 10 years for employees subject to
24 Section ~~22724~~ 22713 of this code.

25 (i) The period of part-time employment of employees subject
26 to Section 20815 of the Government Code shall not extend
27 beyond the end of the school year during which the employee
28 reaches his or her 70th birthday. This subdivision shall not apply
29 to any employee subject to Section ~~22724~~ 22713 of this code.